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Application No. 09/742,527
Reply to Office Action of October 4, 2006

REMARKS

Presently, claims 1-21 and 85-113 are pending in the application. Claims 1, 88, 95-97, 101, and 105 have been amended. Support for these amendments may be found, for example, in original claim 1. Claim 113 has been added. Support the features of new claim 113 may be found, for example on page 18, lines 8-31 of the specification. Accordingly, no new matter has been added to the application.

Claim Rejection – § 112, 1st Paragraph

The Examiner has rejected claims 101-112 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner argues that the terms “programming selection” and “correlation selection” are not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants respectfully traverse this rejection.

Applicants direct the Examiner’s attention to page 21, lines 12-21 and page 16, line 27 - page 17, line 9 of the specification. Page 21 describes that “One skilled in the art would readily appreciate that certain variations or changes in the order of execution of the processing steps shown in Figs. 2A and 2B are possible as part of the invention.” One such change is “instead of selecting the market segment and then correlating available addressable units with avail inventory to identify available avails, the user may have an option of first selecting TV programs, program types, channels, time slots (day part and channel) or any combination thereof...” (page 21, line 15-21). If a user selects a TV program (or other correlation selection), only those avails that correspond to that TV program (or other correlation selection) are obtained. Clearly, the selection of a TV Program, could be termed a programming selection.

“Correlation selection” is a generic term for a selection which the user wishes to be correlated against the available avails. There are examples throughout the specification of a user being allowed to make what one skilled in the art would term a “correlation selection.” In reference to the above cited section on page 21, one skilled in

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the art would understand that first selecting a TV Program, program type, channel, or time slot are all examples of "correlation selections." Further, the specification discloses that "Through the user interface device, the advertiser can also select certain price-varying parameters (e.g., number of households in the addressable units) so as to receive different pricing for different avail selections." (Emphasis added page 6, lines 16-19). Clearly, this passage describes a "selection" that is correlated with the avails so as to receive different pricing for different avails and therefore, one skilled in the art would term it a "correlation selection."

Accordingly, the terms "programming selection" and "correlation selection" are described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants therefore submit that the specification provides adequate support for the concept of "programming selection" and "correlation selection." Applicants respectfully request that the Examiner withdraw the 35 U.S.C. 112, first paragraph rejection of claims 101-112.

Claim Rejection – § 112, 2nd Paragraph

The Examiner has rejected claims 1, 95-97, 101, and 105 under 35 U.S.C. 112, second paragraph, as "being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." The applicant is unsure why the Examiner believes that the term "future avails" is indefinite. It appears as though the Examiner is erroneously applying a § 112, 1st paragraph, argument to a § 112, 2nd paragraph rejection. Applicants respectfully submit that the term "future avails" is not indefinite and is adequately described in the specification. Regardless, since this aspect of the claims is not necessary to distinguish the claims over the prior art of record and in order to further the prosecution of this application, the terms that the Examiner found objectionable have been removed by way of amendment. Applicants respectfully request that the Examiner withdraw the 35 U.S.C. 112, second paragraph rejection of claims of 1, 95-97, 101, and 105.

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Claim Rejection – § 102(e)

The Examiner has rejected claims 1-4, 6-13, 16-21, 27 and 85-112 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,463,585 to Hendricks *et al.* (“Hendricks”). Applicants respectfully traverse this rejection.

Hendricks discloses a system for providing television programming and targeted advertisements to consumers’ homes. In Hendricks, information is sent from a program controller to local storage and/or real-time display on a consumer’s terminal. The stored information may include control information, programming and/or advertisements. Additionally, Hendricks discloses that information related to users’ preferences and viewing actions or habits may be observed, retrieved and analyzed, such that a particular consumer terminal may be identified to a desired target category. The target category, based, for example, on demographic information, is utilized to determine which advertisements to target at the consumer.

Hendricks teaches that the advertisements are assigned to viewer groups with similar characteristics. A software subroutine performs the assignment of advertisements to available time slots:

This selection process typically involves advertisements from various advertisement categories (from a number of advertisers which have purchased “airtime”). Each advertisement will subsequently be assigned a number of times that it will be shown in a give time frame. . . . This frequency of display may be based on various factors, including the number of requests and cost paid by the respective advertiser. . . . These weightings are used to prioritize the advertisements that will be sent to individual set top terminals or group of set top terminals (column 71, lines 11-29).

Only after the advertisements have been scheduled is the billing cost to the advertiser calculated (see column 71, lines 42-49). If advertisements are scheduled then the avails they will fill are no longer available and may no longer be purchased. Although Hendricks takes advertiser preferences into consideration when filling up advertisement avail slots, Hendricks’ system does not give advertisers the option of

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selecting particular avails. Advertisers cannot select that their advertisement be displayed at a particular time on a particular station; rather advertisements in Hendricks are selected based primarily on the target audience. Thus, in Hendricks, advertisers certainly cannot select a particular avail corresponding to a particular addressable unit.

The Examiner mischaracterizes the teachings of Hendricks in order to incorrectly equate avails with actual advertisements. However, an advertisement is different and distinct from an avail or slot into which the advertisement is placed. On page 8 of the Office Action, the Examiner argues that Hendricks teaches "automatically identifying the available addressable units to be correlated with the avail (advertisement slot)." In fact, Hendricks does not teach that addressable units are correlated with avails. Rather Hendricks teaches that addressable units are correlated with advertisements.

Although Hendricks may charge different rates to different advertisers, such rates, even if determined before the scheduling occurs, are not for specific avails corresponding to particular addressable units - they are for displaying advertisements in general. Thus, Hendricks does not teach that a system "generates a price before selecting advertisement," for a least one avail as the Examiner argues (on page 4 of the Office Action). This is because this price is not associated with any avails and instead is associated as the Examiner points out with different advertisers ("rate charged to different advertisers" (Office Action, page 9)). Hendricks simply does not identify and price particular avails corresponding to addressable units that may be purchased by a user.

Independent claim 1 recites:

A computer-implemented method for managing avail inventory data of media programming streams for a communications network, the method comprising the steps of:

correlating available addressable units of the communications network with an avail inventory; and

generating a proposed price for purchase of at least one avail based on results of the correlating step.

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Hendricks does not disclose "correlating available addressable units of the communications network with an avail inventory." Hendricks does not teach comparing the inventory of avails to the available addressable units. Instead, Hendricks teaches selecting a particular feeder channel for a target group, whereas in independent claim 1, an available addressable unit is correlated with the avails themselves. Even if Hendricks teaches correlating an ad with an addressable unit, doing so is not the same as correlating an available ad slot (avail) with an addressable unit.

Furthermore, Hendricks does not disclose the generation of a proposed price for purchase of at least one avail based on correlation of an avail inventory and available addressable units. Rather, Hendricks teaches billing advertisers after the advertisements have been scheduled or billing advertisers different rates (column 71, lines 40 – 47 and column 36, line 65). Hendricks specifically states that "the account and billing database" is updated based on "the ads that are sent to the signal processor," not the correlation. Thus, Hendricks does not teach allowing advertisers to purchase an avail correlated with an addressable unit at a proposed price.

The Examiner argues that it matters whether Hendricks teaches billing before or after the display of the ads. It does not. Hendricks never generates proposed prices for avails based on the correlating of addressable units and avails. In Hendricks, users are not allowed select a particular avail that will be displayed to a particular addressable unit and receive a price based on that correlation. In Hendricks, users are not able to purchase an available ad slot, since no proposed price is generated and ads are scheduled base on matching target categories to feeder channels.

The Examiner states that "Hendricks teaches price rate for purchase of an available avail" (page 9, Office Action). This is simply untrue. There is no teaching in Hendricks of establishing a rate based on the avail desired and the addressable unit desired. Hendricks allows advertisers to request their ad be shown; Hendricks teaches frequency of display depends on "the number of requests and cost paid by the respective advertiser to have the commercial displayed." Neither this request nor the cost itself is

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for an avail because, in Hendricks, advertisers may not specify that their ad be displayed in a particular avail.

The Examiner argues that because Hendricks teaches a system designed to "support different rates charged to different advertisers..." that Hendricks teaches generating a proposed price for an avail based on the correlation of the avail with an available addressable unit. By teaching the charging of a different rate to different advertisers Hendricks does not teach that a price for a particular avail correlated with a particular addressable unit. Since Hendricks does not teach all aspects of claim 1, claim 1 is believed to be allowable.

Independent claim 88 recites "obtaining an inventory of avails corresponding to said segment specific addressable units" and "generating a proposed price for avails in said inventory of avails." Independent claim 101 recites "obtaining a listing of addressable units available to said user for said avails corresponding to said program selection" and "generating a price for said avails corresponding to said program selection stored in said inventory of avails." Independent claim 105 recites "obtaining a listing of addressable units available to said user for said inventory of avails corresponding to said correlation selection" and "generating a proposed price for said avails corresponding to said correlation selection stored in said inventory of avails." For the same reasons as discussed with reference to independent claim 1, Hendricks does not teach or suggest all features of independent claims 88, 101, and 105. Therefore independent claims 88, 101, and 105 are believed to be allowable over Hendricks.

Dependent claims 2-21, 85-87, 89-100, 102-104, and 106-113 are believed to be allowable at least by their dependency on independent claims 1, 88, 101, and 105, respectively. Further, dependent claim 85 recites that "a user selects at least one avail for purchase." Hendricks clearly does not teach this aspect of claim 85. The Examiner argues that because Hendricks teaches "that the frequency of display may be based on various factors, including the number of requests and cost paid by respective advertisers to have the commercial displayed," this is somehow is equivalent to allowing a user to select at least one avail for purchase. Making requests for the display of advertisements

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is simply not the same as a user selecting an avail for purchase. Hendricks simply allows advertisers to request that advertisements be displayed and does not allow them to select a particular avail for the display of advertisements. Applicants note that the Examiner has seemingly failed to address a user selecting an avail for purchase as recited in dependent claim 85.

Reconsideration and withdrawal of the Examiner's rejection of claims 1-4, 6-13, 16-21, and 85-113 are respectfully requested.

Prior Art Rejection – 35 U.S.C. 103(a)

The Examiner has rejected claims 5, 14, and 15 under 35 U.S.C. 103(a) as being unpatentable over Hendricks in view of U.S. Patent No. 6,424,998 to Hunter ("Hunter"). Applicants respectfully traverse this rejection.

As discussed above with respect to independent claim 1, 88, 100, and 105, Hendricks does not disclose all of the features of the independent claims. Hunter does not teach or suggest the element(s) missing from Hendricks. Therefore, even if the combination of Hendricks and Hunter is proper, such combination does not teach or suggest all of the features of independent claims 1, 88, 100, or 105. Accordingly, Applicants respectfully submit that independent claims 1, 88, 100, and 105 are allowable over the combination of Hendricks and Hunter.

Dependent claims 5, 14, 15, 89-100, 102-104, and 106-113 are allowable at least by their dependency on independent claims 1, 88, 101, and 105, respectively. Reconsideration and withdrawal of the Examiner's rejection of claims 5, 14, and 15 are respectfully requested.

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Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully submit that the Examiner's rejections have been overcome, and that the application, including claims 1-21 and 85-113, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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